

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	.	Case No. 1:13-cr-141-1
	.	
Plaintiff,	.	<b>Sentencing Hearing, Excerpt of</b>
	.	<b>Testimony of Elizabeth Shorten</b>
- v -	.	
	.	
GLEN GALEMMO,	.	Wednesday, August 27, 2014
	.	
Defendant.	.	Cincinnati, Ohio
. . . . .	.	

EXCERPT OF TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE HERMAN J. WEBER, SENIOR JUDGE

For the Plaintiff:	EMILY N. GLATFELTER, ESQ. TIMOTHY S. MANGAN, ESQ. Assistant U.S. Attorneys United States Attorney's Office 221 East Fourth Street, Suite 400 Cincinnati, Ohio 45202
For the Defendant:	BENJAMIN G. DUSING, ESQ. ANGELA M. HAYDEN, ESQ. The Law Offices of Benjamin G. Dusing, PLLC 50 East RiverCenter Boulevard Suite 820 Covington, Kentucky 41011
Also present:	Laura S. Jensen, Probation Officer Special Agent Elizabeth Shorten, Internal Revenue Service
Law Clerk:	Amy Peters Thomas, Esq.
Courtroom Deputy:	Elizabeth Brockmeier
Court Reporter:	Luke T. Lavin, RDR, CRR 838 Potter Stewart U.S. Courthouse 100 East Fifth Street Cincinnati, Ohio 45202

P R O C E E D I N G S

\* \* \*

AFTER RECESS

(In open court at 3:32 PM.)

THE COURT: Please be seated.

Is the United States ready to proceed?

MR. MANGAN: We are, Your Honor. We'd like to call Agent Shorten to explain the restitution methodology.

THE COURT: Thank you.

Is the defense ready to proceed?

MR. DUSING: We're ready to proceed, Your Honor.

THE COURT: Proceed.

MR. MANGAN: All right. Your Honor, we'd call Agent Beth Shorten.

THE COURT: Proceed. Swear the witness.

COURTROOM DEPUTY: Raise your right hand, please.

(Elizabeth Shorten is duly sworn by the courtroom deputy.)

ELIZABETH SHORTEN

a witness herein, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MANGAN:

Q. Agent Shorten, could you state your full name and spell your last name.

A. Elizabeth Shorten, S-h-o-r-t-e-n.

1 Q. Can you explain where you work and what your job title is.

2 A. I'm a special agent with the Internal Revenue Service  
3 Criminal Investigation Division.

4 Q. Can you just pull the mike up a little, please.

5 A. (Complies with request.)

6 Q. Thank you. And were you involved in the investigation of  
7 Glen Galemme's case here today?

8 A. Yes.

9 Q. And as part of that did you collect a variety of bank  
10 records and other records relating to his financial dealings?

11 A. Yes.

12 Q. Did you also collect records from various investors and  
13 other victims?

14 A. Yes.

15 Q. All right. Were you also involved in collecting records  
16 related to a search warrant?

17 A. Yes.

18 Q. All right. Now, as part of your duties in this case did  
19 you compile a list that would try to calculate whether  
20 particular investors suffered a loss or not?

21 A. Yes.

22 Q. All right. Can you explain for the Court your methodology  
23 in determining whether or not a particular investor had a loss  
24 or not.

25 A. Yes.

1 I started with the four main bank accounts of Queen City  
2 that were at U.S. Bank. The investors' money was deposited  
3 into those four accounts throughout the scheme. Withdrawals  
4 that were paid to the investors were also made out of those  
5 accounts.

6 So I started by analyzing the deposits and withdrawals into  
7 those accounts by investor. Then I used IRA records from the  
8 third-party IRA custodians to supplement those records, because  
9 some of the investors sent their money directly to the IRA  
10 custodian, and then the IRA custodian sent it to the U.S. Bank  
11 accounts for Queen City.

12 I also supplemented that with the investors' records that  
13 they provided themselves and corroborated their accounts of  
14 what they deposited and withdrew with what was shown in the  
15 bank records. From there I determined all of the deposits and  
16 all of the withdrawals made by each investor, and I came up  
17 with a net amount for each investor.

18 The investors that determined that they had deposited more  
19 than they withdrew had shown a loss and are included in the  
20 restitution amounts.

21 The investors that I determined withdrew more money than  
22 they deposited are not included in the restitution calculation.

23 Q. Okay. Now, when you made a list of all of the investor  
24 deposits, okay, let's say we're talking about one particular  
25 investor, and you looked at their deposits, did you attempt to

1 differentiate whether or not that was considered an investment  
2 in a stock, versus a loan or versus some other type of  
3 investment?

4 A. No.

5 Q. Okay. So were you simply just looking at the amount that  
6 was deposited from that investor?

7 A. Yes.

8 Q. Okay. In terms of the withdrawals that came out from Mr.  
9 Galemmo's companies to the investor, did you attempt to  
10 delineate whether or not that payment was a purported return or  
11 whether it was a return of principal or anything else?

12 A. No.

13 Q. Okay. So did you simply look at the net dollars in  
14 compared to the net dollars out?

15 A. Yes.

16 MR. MANGAN: All right.

17 Your Honor, I believe that summarizes the methodology. We  
18 do have tables. I can go through a particular example, but if  
19 the Court's satisfied, we could stop there.

20 THE COURT: Maybe if Mr. Dusing would want to examine  
21 at this point.

22 MR. DUSING: Just a couple of questions, Your Honor.

23 THE COURT: Why don't you.

24 CROSS-EXAMINATION

25

1 BY MR. DUSING:

2 Q. Special Agent Shorten, my name is Ben Dusing. I represent  
3 Mr. Galemmo. We are familiar with each other, are we not?

4 A. Yes.

5 Q. Just a few questions. I believe you testified that you did  
6 not, in fact, delineate between loans or investment monies in  
7 conducting your analysis. Could you have?

8 A. Not with the records that I had, no.

9 Q. Is it not true, though, that within the fund files that  
10 there are instances, several instances of documented loans?  
11 For example, there are notes, et cetera.

12 A. Yes.

13 Q. The funds reflected by those notes, would they have been  
14 included in your analysis conducted as you've described it?

15 A. Yes.

16 Q. All right. And it is the case as well, is it not, that in  
17 the course of your investigation, speaking with various  
18 investors, they did indicate that, in fact, part of the money  
19 that they sent to Mr. Galemmo in some instances was, in fact,  
20 loans?

21 A. Yes.

22 MR. DUSING: Your Honor, no further questions.

23 THE COURT: Now, the loans were based on notes that  
24 were issued by the defendant to these various individuals; is  
25 that correct?

1           THE WITNESS: Right. He approached the individuals  
2 for short-term loans and provided, in some cases, a note, but  
3 not in all cases, for the terms of the loan.

4           THE COURT: So the, quote, mortgagor -- or the  
5 mortgagee, or whatever we call the creditor, would actually  
6 give to the defendant X dollars and expect that to be repaid in  
7 a short length of time and add interest; is that right?

8           THE WITNESS: Right.

9           THE COURT: And were you able to look at any records  
10 about whether they were paid back or not?

11          THE WITNESS: Yes. And in most cases, especially for  
12 the early loans throughout the scheme were paid back because  
13 they were generally less than 30-day loans. Also in some cases  
14 the principal or the interest of the loan was actually rolled  
15 over into the hedge fund, or Mr. Galemme told them he was  
16 rolling it over.

17          THE COURT: And when they were rolled over to the  
18 hedge fund, then that accounting transaction would show that  
19 there was a deposit in the hedge fund for whatever the amount  
20 of payment was?

21          THE WITNESS: Right. But there was no actual  
22 accounting for the hedge fund, so I was going strictly with the  
23 bank records. So the initial loan, when it was deposited into  
24 U.S. Bank, I counted that as a deposit, so --

25          THE COURT: Now, was that a deposit to the defendant?

1 THE WITNESS: Yes.

2 THE COURT: It wasn't a deposit to one of the victims?

3 THE WITNESS: No. When they were paid back, I counted  
4 that as a withdrawal. So when they were paid back the  
5 principal plus interest, their restitution amount was actually  
6 lowered in the end because they made gains on those.

7 THE COURT: And that would be paid -- when they were  
8 paid back, then that would be eliminated from my concerns with  
9 the case; is that correct?

10 THE DEFENDANT: Right. Well, a lot of the hedge fund  
11 investors did the short-term loans as well. Maybe not a lot,  
12 but a handful of them.

13 THE COURT: And the \$29 million figure that I've been  
14 told about these short loans, was that your figure?

15 THE DEFENDANT: No. That was provided by the  
16 defendant.

17 THE COURT: The defendant said that that was the  
18 amount of these loans he had?

19 THE DEFENDANT: Yes. So I came up with the hundred-  
20 plus figure that was deposited into Queen City, and he said  
21 that 29 million of that a hundred-plus million was for short-  
22 term loans.

23 THE COURT: I see. In other words, you had the total.  
24 The figure you were dealing with were both loans and, of  
25 course, the deposits?



1 THE DEFENDANT: Right, the hedge fund deposits.  
2 Because everything went into the same bank accounts.

3 THE COURT: And then the loans were -- he used, of  
4 course, the money as he chose. And the amount, then, that went  
5 to the hedge funds, the deposits that were supposed to go into  
6 the hedge funds, were they then transferred to the accounts? I  
7 know it was all a paper transaction.

8 THE DEFENDANT: Uh-huh.

9 THE COURT: But were they transferred to the -- did  
10 they appear on the accounts of the individuals as their  
11 interest in the hedge fund?

12 THE DEFENDANT: There was no accounts. They received  
13 account statements each month, so the deposits did appear on  
14 the account statements for the investors.

15 THE COURT: And it would be the deposit to the hedge  
16 fund?

17 THE DEFENDANT: Right.

18 THE COURT: And there would be a balance of the value  
19 of the hedge fund or --

20 THE DEFENDANT: Yes.

21 THE COURT: And that value fluctuated from time to  
22 time?

23 THE DEFENDANT: Right. Every month they received a  
24 monthly statement with their investment plus interest received  
25 for that month. So every month their investment would go up if

1 they didn't make withdrawals.

2 THE COURT: And did you examine those documents?

3 THE DEFENDANT: I did not examine all of them. I did  
4 examine some.

5 THE COURT: I see. Okay. Thank you.

6 MR. MANGAN: Your Honor, if I could, just two more  
7 questions to clarify.

8 THE COURT: Sure. Certainly.

9 REDIRECT EXAMINATION

10 BY MR. MANGAN:

11 Q. Agent Shorten, in terms of money that came in to Glen  
12 Galemme that was called a loan, was that money often then used  
13 to pay a different investor?

14 A. Yes.

15 Q. And in terms of the money that went back to an investor as  
16 repayment of the loan --

17 Okay?

18 A. Uh-huh.

19 Q. -- did that money often come from a different investor?

20 A. Yes.

21 MR. MANGAN: That's all I had, Your Honor. If there  
22 are no more questions related to the methodology, we could  
23 address the list.

24 THE COURT: Mr. Dusing, do you wish to examine?

25 MR. DUSING: No, Your Honor.

1 MR. MANGAN: Thank you. I'd ask that Ms. Shorten be  
2 excused.

3 THE COURT: Yes. Thank you very much.

4 (Witness excused.)

5 (End of requested excerpt.)

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7  
8 I N D E X O F W I T N E S S E S

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15 C E R T I F I C A T E

16 I, Luke T. Lavin, RDR, CRR, the undersigned, certify  
17 that the foregoing is a correct transcript from the record of  
18 proceedings in the above-entitled matter.

19 s/Luke T. Lavin  
20 Luke T. Lavin  
21 Official Court Reporter

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